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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,038	12/11/2003	Jonathan T. Zempel	LOT920030019US	8720
45544 7590 12/04/2008 HOFFMAN WARNICK LLC 75 STATE ST 14TH FLOOR ALBANY, NY 12207				
EXAMINER				
BETTT, JACOB F				
ART UNIT		PAPER NUMBER		
2169				
NOTIFICATION DATE		DELIVERY MODE		
12/04/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCcommunications@HWDPATENTS.COM

Office Action Summary

Application No.

10/734,038

Applicant(s)

ZEMPEL, JONATHAN T.

Examiner

Jacob F. B  tit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Remarks

1. In response to communications filed on 11 April 2008, claims 1, 3, 9, 14-18 are amended per applicant's request. Claims 1-20 are presently pending in the application.

Claim Objections

2. Claims 18-20 are objected to because of the following informalities: Claims 18-20 recite "program code for" performing actions. The use of the word "for" makes it appear as if the actions coming after are the intended use of the programming code and not actual actions that it must perform. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. See MPEP §2106 II.C. The applicant should amend the claims to include functional language or if the applicant intends for the claims to be interpreted in view of 35 USC §112 sixth paragraph, the applicant should amend the claims so that they recite "means for". See MPEP §2181 I. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Redmond et al. (U.S. patent application publication No. 2002/0095401 A1).

As to claim 1, Redmond et al. teaches a method of tracking data, the method comprising:
receiving a request from a client, wherein the request is at least one of: providing update data for a tracked data item or requesting data for the tracked data item (see paragraphs 0040-0041);

determining an identification of the particular tracked data item in the request (see paragraph 0045);

selecting a handler based on an identification of the particular tracked data item (see paragraph 0042);

obtaining response data from a data application based on the tracked data item (see paragraph 0050);

generating a response based on the response data using the handler (see paragraph 0055-0056);

storing the response in a recordable medium (0056, where it is implicit that if a response is transmitted to a client, the client will store it in some kind of memory when it is received, further it is implicit that the message exists somewhere in memory before it is transmitted).

As to claim 2, Redmond et al. teaches further comprising providing the response to the client (see paragraph 0056).

As to claim 3, Redmond et al. teaches further comprising determining an identification of the particular client from which the request was received, wherein the selecting step is further based on the identification of the particular client (see paragraph 0044).

As to claim 4, Redmond et al. teaches wherein the obtaining step includes:
retrieving a trackable object associated with the tracked data item (see paragraph 0042);
and
providing the trackable object to the data application (see paragraph 0045-0047).

As to claim 5, Redmond et al. teaches wherein the obtaining step includes:
retrieving at least one measurable objective associated with the tracked data item (see paragraph 0035 and paragraph 0040); and
providing the at least one measurable objective to the data application (see paragraph 0040).

As to claim 6, Redmond et al. teaches wherein the generating step includes:
obtaining format data based on a response format (see paragraph 0041); and
formatting the response data using the format data (see paragraph 0043).

As to claim 7, Redmond et al. teaches wherein the format data defines a predefined tracking standard (see paragraph 0042).

As to claim 8, Redmond et al. teaches wherein the generating step includes:
obtaining client data based on the client (see paragraph 0050); and
formatting the response data using the client data (see paragraphs 0050-0052).

As to claim 9, Redmond et al. teaches a method of tracking data, the method comprising:
receiving a request from a client, wherein the request is at least one of: providing update
data for a tracked data item or requesting data for the tracked data item (see paragraphs 0040-
0041);

determining identifications of the particular tracked data item in the request and the
particular client from which the request is received (see paragraph 0044 and 0045);

selecting the handler based on identifications of the particular tracked data item and the
particular client (see paragraph 0042);

obtaining response data for the tracked data item from a data application (see paragraph
0050);

generating a response based on the response data using the handler (see paragraph 0055);
and

providing the response to the client (see paragraph 0056).

As to claim 10, see the citations directed to claim 4 above.

As to claim 11, see the citations directed to claim 5 above.

As to claim 12, see the citations directed to claim 6 above.

As to claim 13, see the citations directed to claim 8 above.

As to claim 14, Redmond et al. teaches a system for tracking data, the system comprising:
at least one computer (see figure 1), the at least one computer comprising:
at least one handler for processing a request that is at least one of: providing update data for a tracked data item or requesting data for the tracked data item (see paragraphs 0040-0042);
and
a management system for receiving the request from a client, determining an identification of the particular tracked data item in the request, and selecting one of the at least one handlers based on the identification of the particular tracked data item (see paragraph 0042, 0044, and 0045);
wherein the selected handler obtains response data for the tracked data item, generates a response based on the response data, and stores the response in a recordable medium (see paragraphs 0050 and 0055-0056).

As to claim 15, Redmond et al. teaches the at least one computer further including comprising a data application for providing the response data to the selected handler (see paragraph 0056).

As to claim 16, Redmond et al. teaches the at least one computer further including further comprising a client system for providing client data based on the client (see paragraph 0044).

As to claim 17, Redmond et al. teaches the at least one computer further including a format system for providing format data based on a predefined tracking standard (see paragraph 0042).

As to claim 18, Redmond et al. teaches a program product stored on a physical recordable medium for tracking data, which when executed comprises:

program code for receiving a request from a client, wherein the request is at least one of: providing update data for a tracked data item or requesting data for the tracked data item (see paragraphs 0040-0041);

program code for determining identifications of the particular tracked data item in the request and the particular client from which the request was received (see paragraphs 0044 and 0045);

program code for selecting a handler based on identifications of the particular tracked data item and the particular client (see paragraph 0042);

program code for obtaining response data for the tracked data item from a data application (see paragraph 0050);

program code for generating a response based on the response data using the handler (see paragraph 0055); and

program code for providing the response to the client (see paragraph 0056).

As to claim 19, Redmond et al. teaches further comprising: program code for retrieving at least one of:

a trackable object and at least one measurable objective associated with the tracked data item (see paragraph 0035); and

program code for providing the at least one of: a trackable object and at least one measurable objective to the data application (see paragraphs 0035 and 0040).

As to claim 20, Redmond et al. teaches further comprising:

program code for obtaining format data based on a response format (see paragraph 0041);

program code for obtaining client data based on the client (see paragraph 0050); and

program code for formatting the response data using the format data and the client data (see paragraphs 0043 and 0050-0052).

Response to Arguments

5. Applicant's arguments filed 11 April 2007 have been fully considered but they are not persuasive.

In response to the applicant's arguments directed towards the rejections given under 35 USC §101, the arguments are moot in view of the applicant's amendments, and therefore will not be considered.

In response to the applicant's comments that "the Office [action] focuses on what the claims do not state, rather than what the claims actually state", in the future explicit statements of how to overcome the prior art will not be made in view of the applicant's direction.

In response to the applicant's arguments that Redmond does not disclose "determining an identification of the particular tracked data item in the request", the arguments have been considered, but are not deemed persuasive. Redmond et al. teaches identifying the particular tracked data item by product and vendor. This identification is used in determining if the particular SAO is already found in memory. See paragraph 0045. Therefore, the Redmond et al. anticipated the applicant's independent claims as currently presented.

In response to the applicant's arguments directed towards claim 3, the arguments have been considered, but are not deemed persuasive. Paragraph 0044 clearly discloses identifying clients by player types and using a redirect.dat file to redirect particular requests. Therefore since the client can be identified by player type, the applicant's amendments have failed to overcome the rejection given under 35 USC §102(b).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob F. Bétit whose telephone number is (571)272-4075. The examiner can normally be reached on Monday through Friday 10:30 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on (571) 272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Tony Mahmoudi/
Supervisory Patent Examiner, Art Unit
2169

/jfb/
Examiner, Art Unit 2169
25 Nov 2008